

THE ROYAL COURT

APPLICANTS IN PERSON

October 2019

Royal Court House
St James Street
St Peter Port
Guernsey
GY12NZ

www.guernseyroyalcourt.gg



THE ROYAL COURT
OF GUERNSEY

GUARDIANSHIP

What is Guardianship?

Where an individual (referred to as the “Patient”) is unable to manage his or her own affairs due to infirmity or by virtue of being a minor it is necessary for a person or persons to be appointed as a Guardian to manage their affairs. This may be due to an individual no longer being mentally capable or due to illness. The Guardian is often a close relative but can also be a friend or professional person. More than one Guardian can be appointed, if required.

Applications to the Court must be supported by a “Family Council”. This is normally made up of three of the closest blood relatives to the patient. The Family Council will be required to attend Court with the Applicant if they are able to. If a member of the Family Council is unable to attend on the Court date they can appear via a sworn Power of Attorney which bestows power to either another member of the Family Council or an Advocate to appear on their behalf. Appropriate medical opinion will also need to be provided by a medical professional in the form of an Affidavit. The Doctor swearing the Affidavit must have seen the Patient not more than six weeks prior to the Court hearing. Details of what the Affidavit should contain are attached hereto in Practice Direction No.4 of 2009.

The appointment of a Guardian does not give the Guardian power to sell the individuals' realty (houses and land). For the Guardian to do so, it is necessary to make a further application to Court seeking permission to sell the patient's realty.

Guardianships are heard on a Thursday morning following Contract Court at 9.45am or, if later, at the end of Contract Court. If the proposed guardianship is not agreed by the patient's family the Court may adjourn the matter to be heard at a later date.

What do I need to do?

Enclosed within this leaflet is Form 1 which will need to be completed and submitted to the Royal Court together with an affidavit sworn by the Patient's GP. The documents must then be submitted either in person at the Royal Court counter or via the post, along with payment of the relevant fees. An explanation of the fees is also enclosed within this leaflet.

Please note that forms can also be obtained on the Royal Court website: www.guernseyroyalcourt.gg.

Five copies of the paperwork must be filed with the Greffe by 4pm on the Monday preceding the Court. The Court date is to be specified by the Applicant when the paperwork is submitted.

FORM 1

IN THE ROYAL COURT OF GUERNSEY

In the matter of the application for the Guardianship of.....

("the Patient")

To: H.M. Greffier

I/We, the person(s) named in Paragraph 1 hereof, hereby give you notice of my/our intention to apply to be sworn as Guardian(s) of the Patient described in Paragraph 2 hereof and for this purpose hereby make oath and swear as follows:-

1. DETAILS OF APPLICANT(S)

Full name of the proposed Guardian:.....

Residential Address:.....

Occupation:.....

Marital status:.....

(IF APPLICABLE)

Full name of the proposed Guardian:.....

Residential Address:.....

Occupation:.....

Marital status:.....

2. DETAILS OF PATIENT

Full name of the Patient (including in the case of a woman who has been married her maiden name):.....

Present address of Patient:.....

Former address of Patient if hospitalised:.....

Date and place of birth of Patient:.....

Relationship of the Patient to the applicant(s):.....

3. DETAILS OF PROPOSED FAMILY COUNCIL

(i) Full names and address:.....

.....
.....
.....

Relationship to the Patient:.....

(ii) Full names and address:.....

.....
.....
.....

Relationship to the Patient:.....

(iii) Full names and address:.....

.....
.....
.....

Relationship to the Patient:.....

Are the proposed Guardian(s) and the Family Council the closest relatives to the Patient?

Yes/No*

*If the answer to the last question is no:

- (i) Explain why the closest relatives are not able to act as Guardians or as members of the Family Council.

.....
.....
.....
.....
.....
.....
.....
.....
.....

- (ii) Are the closest relatives aware that this application is being made?

.....
.....
.....
.....

4. To the best of my knowledge the Patient's Estate comprises:-

Real property situate in the Bailiwick of Guernsey (give brief particulars – if none write "None"):

.....
.....
.....

Personal Estate other than furniture and personal effects (e.g. bank accounts, stocks and shares):

.....
.....
.....

5. I understand that if I am appointed the Patient’s Guardian:-

- (i) I will render a full account of my administration of the Patient’s Estate if called upon to do so;
- (ii) I will keep the Family Council reasonably informed of the course of my Administration of the Patient’s Estate.

6. CONCERNING THE MEDICAL EVIDENCE

Name of the Patient’s regular medical attendant and his/her address:

.....
.....
.....

EITHER

The doctor will attend to give evidence orally and has been warned by me to come:*

OR

The doctor will give evidence by affidavit, which is attached hereto.

*Delete as not applicable

I further understand that at the hearing of my application by the Court I will be required to swear on oath/affirm that the particulars contained herein are correct.

SWORN/AFFIRMED by the aforesaid

at
Guernsey, this
day of 20 , before me:

.....

.....

.....

Notary Public

FORM 2

In the Royal Court of Guernsey
In the matter of an application for the guardianship
of (" the Patient ").

I make oath and say as
follows:—

1. I am authorised to practise as a medical prac-
titioner in the Islands of Guernsey and Herm.

2. My professional qualifications are

3. I have been the Patient's regular medical
attendant since
According to my records the Patient was born
on

4. I last examined the Patient on
19..... at

5. Such examinations and other tests that have been
carried out revealed that the Patient is suffering
from the following symptoms:—
.....
.....
.....
.....

6. The medical condition of the Patient is such that the Patient is unable to manage his/her affairs to such an extent that the Patient requires a Guardian to be appointed for him/her.

7. EITHER

The Patient's condition is unlikely to ever improve to an extent that the need for such a Guardian will be abated.

OR

The Patient's condition is a temporary one, but in my opinion recovery to a state of health that will no longer necessitate the services of a Guardian is unlikely for at least _____ months.*

*Delete as not applicable

Sworn before me

At

This _____ day of _____ 19____

Bailiff/Jurat/Notary Public

K. H. TOUGH
HER MAJESTY'S GREFFIER

REGISTRAR-GENERAL
OF
BIRTHS
MARRIAGES AND DEATHS

TELEPHONE: (01481) 725277
FASCIMILE: (01481) 715097

*Greffie,
Royal Court,
Guernsey,
PM 2PB*

Issued 26 March 2009

PRACTICE DIRECTION NO 4 of 2009

Curatelle Applications – Medical Information

1. The Curatelle Rules, 1989, specify in Form 2 the affidavit to be provided by the Patient's medical practitioner.
2. In addition to the diagnosis of the Patient's medical condition, the Royal Court requires succinct information on the symptoms which have led the medical practitioner to conclude that the Patient was unable to manage his affairs to such an extent that the Patient required a Guardian to be appointed for him.
3. For example, the medical condition may be "dementia". The affidavit should then also set out the relevant disabling symptoms, such as "short term memory loss", "loss of numeracy skills, especially in relation to money", "confusion as to time/space/identifying carers or relations" etc. This list is not exhaustive, but indicates the form of detail which the medical affidavit should contain.

K H TOUGH
Her Majesty's Greffier



Guernsey Court Fees

Name of Case:

Service of a summons, notice or document in proceedings for recovery of a sum of money.

N/A

First and each subsequent tabling of a cause, application or petition, filing of defences, and interlocutory applications.

a) in proceedings for the recovery of a sum of money.

N/A

b) in proceedings relating to Guardianship

£231.00

Proceedings before the Court requiring a hearing (up to 1 hour). (Exceeding one hour double the appropriate fee specified per hour or part thereof).

£231.00 (£462.00 per hour or part thereof)

Lodging of Affidavits

£60.00

Filing of Documents (Matrimonial Causes)

N/A

I have been shown the schedule of fees set out in the Cost and Fees Rules relevant to my application, which is available on the www.guernseylegalresources.gg website, and I understand that I will be charged for each application I make and the cost of the court hearing and other applicable fees.

Signed..... Date.....

Full name..... Telephone number (W)

E-mail address

PLEASE COMPLETE AND SIGN BOTH PAGES OF THIS DOCUMENT AND RETURN TO THE GREFFE TO ENABLE A COURT FEE ACCOUNT TO BE OPENED IN THE NAME OF THE APPLICANT. FAILURE TO DO SO MAY RESULT IN THE APPLICATION NOT BEING HEARD BEFORE THE COURT.

SECTION A - Where the applicant is an individual

Title: Mr/Mrs/Miss

Surname

First name(s)

Middle name(s)

Maiden name

Date of birth

Address (including post code):

.....

Home telephone number

SECTION B - Where the Applicant is a company

Company name

Company address (including post code)

.....

Main (business) telephone number

E-mail address

Correspondence address (if different to address given above)

.....

Directors of the Company

.....

Company Registration Number

I CERTIFY THAT THE ABOVE DETAILS ARE ACCURATE TO THE BEST OF MY KNOWLEDGE

Signed..... Date.....

Full name..... Contact telephone number

E-mail address

When processing your personal data, these offices are compliant with the Data Protection (Bailiwick of Guernsey) Law, 2017. For more information about how these offices process your personal data, please view the Fair Processing Notice available at the Royal Court Public Counter or on the Royal Court Website Homepage.